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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/647,043

11/22/2000

Peter Hauler

10191/1546

3937

26646

7590

01/22/2003

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EXAMINER

FLEMING, FRITZ M

ART UNIT

PAPER NUMBER

2182

DATE MAILED: 01/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/647,043

Applicant(s)

HAULER ET AL.

Examiner

Fritz M. Fleming

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 15-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.


FRITZ FLEMING
PRIMARY EXAMINER
GROUP 2100

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 September 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- ☐ Interview Summary (PTO-413) Paper No(s). _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

DETAILED ACTION

Specification

The substitute specification has been accepted and entered.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 15-28 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification discloses details commensurate with the detail of the sole Figure, that being numerous blocks interconnected by lines. Given this, the specification merely describes in general terms the desired functionalities of the system without providing specific enablement for the claimed subject matter. For instance, where are the locks for the power transmission and gear train shown and how are these thus enabled by specific example in what was originally filed? Where is the clutch detection addressed? What/where/how is the neutral detected and then processed as claimed? The same goes for the P/N. Where is the diesel warm up period actually processed for starting conditions? The only mention seems to be an indication of the period, which in no way enables what is claimed, as indication is not what is claimed. How/when/where is intent via brake/clutch determined? Where are all of the locks shown/described/enabled and how are they released prior to starting? How

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is the automatic shutdown done per claim 24 and where are the enabling details, requisite description, and illustration of what is claimed to be found?

How/what/when/where performs the stop detecting and engine speed detecting? The specification indicates that this is not shown and is most likely some additional controller not present in the specification. Where are the specifics of claim 27 to be found, especially the partial states of powering based upon communications distances? The mere duplication of claimed subject matter in the specification is not enabling what is claimed, merely providing literal antecedent basis.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 15,16,19,20,23 are rejected under 35 U.S.C. 102(e) as being anticipated by Ross '073.

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Note especially the park and neutral detectors 20,22 of the automatic transmission system. Note also the checking of the column lock, and when a start is requested, Park or Neutral is required, and the column is unlocked (i.e. steering) and then the start is enabled by providing power to the I-1 and SOL. Specifically, per Figures 3 and 4, column 5 sets forth the initial transponder detection to unlock doors, just as in '935. However, a second interrogation is started when the transponder 50 is detected inside the interior, and upon a proper match, the MAIN ROUTINE of Figure 3 would be started. The RUN switch is monitored (i.e. at least one of a driver triggered switching process) and when such proceeds to Figure 4, the steering column is automatically unlocked and then the car is started. Thus operator functionality is increased by an automatic unlocking of the steering column. Note driver detection in column 5. The P/N is detected per column 6.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 15-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over '935 in view of Ross ('073) and Sellem et al. ('914).

'935 discloses a two stage process in which the transponder is initially detected and interrogated outside of the vehicle so as to perform an unlocking of the doors to allow access. See for instance column 7 which discloses the asking for the doors to be

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unlocked. Once the doors have been unlocked, presence of the operator is detected per the seat switch 132, with an intent to start being signaled by both the ignition start request 130 and brake pedal 134 being depressed. This leads in turn to a second interrogation process in which the transponder is again interrogated in order to determine a valid start code. If all matches, then the controller 80 allows the ignition start circuit to start the engine. After leaving the vehicle and out of the effective range, the doors are locked. Indication of incorrect coding or other problems are made evident by the system returning to the power down standby at 1000. Engine running is detected at 2029. After an unsuccessful start attempt, it is inherent that depressing the three required switches will request another start. It is shown that at least some of the circuit remains powered up after leaving the effective range as the doors are locked (providing the broadly claimed "safety system" as locks provide a degree of safety), and the system goes into the periodic interrogation mode per column 8, lines 12+. It is inherent that this mode will be entered after successful, as well as unsuccessful start attempts. '935 lacks some of the detections and lacks the preliminary startup procedure being automatically initiated.

Ross '073 in the same field of endeavor discloses some of the missing features in the context of a passive entry and starting system. Note especially the park and neutral detectors 20,22 of the automatic transmission system. Note also the checking of the column lock, and when a start is requested, Park or Neutral is required, and the column is unlocked (i.e. steering) and then the start is enabled by providing power to the I-1 and SOL. Specifically, per Figures 3 and 4, column 5 sets forth the initial transponder

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detection to unlock doors, just as in '935. However, a second interrogation is started when the transponder 50 is detected inside the interior, and upon a proper match, the MAIN ROUTINE of Figure 3 would be started. The RUN switch is monitored (i.e. at least one of a driver triggered switching process) and when such proceeds to Figure 4, the steering column is automatically unlocked and then the car is started. Thus operator functionality is increased by an automatic unlocking of the steering column. '914 teaches a steering lock and diesel preheating circuit that are part of an anti-theft system.

Thus it would have been obvious to one having ordinary skill in the art at the time that the invention was made to modify '935 per the teachings of '073 and '914 in order to ensure better safety in starting by detecting the transmission state and automatically unlocking the column during a start, as well as accounting for the diesel preheating when used in place of a gasoline engine. Certainly, diesel engines are well known in the art and to incorporate the appropriate controlling, i.e. diesel preheating in an anti-theft environment, is obvious subject matter, as the "start" sequence will factor in the required preheating. '073 addresses some issues of the OFF state as well as other issues of a present transmitter at column 7, lines 28+. If a transmitter is not present, then I-0,1,3 are turned off and other checks are made for PARK, with the end effect being an effective shutdown of the engine. Thus combined with '935, the resultant teaching is that an out of range transponder will effect door locking as well as engine shutdown as a "not present transmitter" falls into the "out of range" category. Obviously, such is only done when the vehicle is stopped, as doing to the contrary, would simply go

against the ordinary skill and common sense of those skilled in the art. A stopped vehicle in park is indicative of a situation in which the operator has intended to leave the car and appropriate for the described conditions. '073 does set this forth at column 8 which reads "When the transmitter is removed, assuming that the vehicle is in a self-mobility preventing condition, such as PARK of an automatic transmission, the code datum is removed from memory as the system goes to sleep; and this corresponds to a physical key being removed from the vehicle." Thus applying this to '935 results in these occurring when the transponder is moved out of range.

Response to Arguments

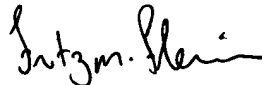
7. Applicant's arguments filed 12-30-02 have been fully considered but they are not persuasive. The examiner appreciates applicants' tutorial on case law. While such does make sense, it does not address the rejection at hand. The examiner has made a prima facie case and not merely conclusionary statements. The examiner has raised specific points and not made a simply blanket generalization. Had the examiner merely made a conclusionary statement without sound scientific reasoning, then the applicants' arguments would be persuasive. However, the examiner has laid out a sound scientific argument pointing to shortcomings in the specification that negatively impact enablement. Regarding the art rejection, applicants have correctly pointed out the shortcoming of '935. However, the missing portion is disclosed by '073, thus the combination is applied to claim 15. An additional review of '073 reveals that such properly anticipates at least claim 15 per the new rejection.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fritz M. Fleming whose telephone number is 703-308-1483. The examiner can normally be reached on M-F 0630-1500.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on 703-308-3301. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.


Fritz M. Fleming
Primary Patent Examiner
Art Unit 2182

fmf
January 17, 2003